

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Upon entry of this amendment, claims 5-6, 9-10 and 17-19 are amended, claims 7 and 23 are cancelled, and claims 1-6 and 8-22 are pending.

Drawings

Applicants attached hereto formal drawings of Figures 1 and 2. Applicants note that in the Office Action Summary, the Examiner has not yet accepted Figures 1 and 2. **Acceptance of the drawings is respectfully requested in the next communication from the Examiner.**

Rejections Under 35 U.S.C. § 112, Written Description

The rejection of claims 5, 7-19 and 23 under 35 U.S.C. § 112, first paragraph has been overcome by the amendments to claims 5.

Rejections Under 35 U.S.C. § 112, Enablement

Deposits have been made under the terms of the Budapest Treaty and applicants attach hereto a supporting declaration. The specification describes the deposits at paragraph [0116]. The claims have also been amended to overcome the rejections for lack of enablement.

Rejections Under 35 U.S.C. § 112, Indefiniteness

The claims have been amended to overcome the outstanding rejections under 35 U.S.C. § 112, second paragraph for indefiniteness.

Rejections Under 35 U.S.C. § 102, Anticipation

Claims 8-9, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Blattner et al. Claim 8 is directed to an expression vector comprising the DNA molecule of claim 5. Amended claim 5 is directed to a DNA molecule coding for a polypeptide comprising SEQ ID NO:1. Neither Blattner or the sheet named "RESULT 4", which was

attached to Blattner, does not disclose said polypeptide comprising SEQ ID NQ:1. The sheet "RESULT 4" discloses a polypeptide which is similar to, but clearly different from the polypeptide of SEQ ID NO:1. Therefore, Blattner or the sheet "RESULT 4" does not disclose the DNA molecule coding for a polypeptide comprising SEQ ID X 4:1. Further, neither Blattner or the sheet "RESULT 4" does not disclose the expression vector comprising the DNA molecule. Moreover, Blattner does not teach any vector or transformant comprising said DNA molecule. Accordingly, claim 8 and depending claims 9, 13, and 16, are novel.

Claim 22 is directed to an expression vector comprising the DNA molecule of claim 6, which is directed to a DNA molecule that hybridizes to a nucleotide comprising SEQ ID No:2. The Examiner states that Blattner teaches a DNA molecule that hybridizes to SEQ ID No.2 of the present claims. However, applicants cannot find that Blattner or the sheet "RESULT 4" specifically discloses such DNA molecule. Again, the sheet "RESULT 4" merely discloses a polypeptide, not a DNA molecule, which clearly different from the polypeptide of SE4 ID NO:1. In fact, the sheet "RESULT 4" it is specifically mentioned in line 14 that "nucleic acid sequence not shown; translation not shown." Therefore, applicants respectfully ask that the prior art rejection of record be withdrawn.

Conclusion

Applicants believe that the present application is now in condition for allowance. Applicants respectfully request that upon allowance of product claim 13 that claims 20 and 21 be rejoined.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of

papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date November 22, 2004

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5300
Facsimile: (202) 672-5399



Matthew E. Mulkeen
Attorney for Applicants
Registration No. 44,250